IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2006

CORAM

THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.P.No.39371 of 2006
and
M.P.No.1 of 2006

V.Arokiasamy ..Petitioner.

-Vs-

The Manager of
Metropolitan Transport Corporation Ltd.,
Pallavan Illam, Anna Salai,
Chennai - 600 002. ..Respondent.

Petition filed under Article 226 of the Constitution of India for issue of Writ of Certiorarified Mandamus calling for the records of the respondent charge memo made in Charge memo No.17885/ Sa Pi (O.Na)5/MTC /2006 dated 29.09.2006 and quash the same and consequently directed the respondent to settle all the terminal benefits including pension to the petitioner.

For Petitioner : Mr.S.T.Varadarajulu

For Respondent : Mr.G.Muniratnam

O R D E R

The writ petition is filed challenging the proceedings of the respondent dated 29.9.2006 under which the respondent has initiated disciplinary proceedings against the petitioner by way of framing charges and directed the petitioner to submit his explanation.

2. The case of the petitioner is that while he was working as Selection Grade Assistant Manager in the respondent Corporation, by an order dated 29.9.2006, the respondent has permitted the petitioner to retire from service on attainment of superannuation on 30.9.2006, however, without prejudice to the disciplinary proceedings pending against him.

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3. The grievance of the petitioner is that on the date when the petitioner was allowed to retire from service namely on 29.9.2006, there was no proceedings pending against him. However, it is the case of the petitioner that on the basis of certain complaints from the third parties that he has obtained some amount by way of bribe for the purpose of allowing a group of persons to put up thatched shed in front of a hotel and that has resulted in the disgrace to the department and it was based on that, there was investigation by the Vigilance Department and after enquiry, the Vigilance Department has given a report on 20.9.2006 stating that the allegation against the petitioner as Deputy Manager (TTE & G) Metropolitan Transport Corporation Limited, Chennai was held to be not substantiated and recommended for dropping of further action. Therefore, according to the petitioner, when the Vigilance Director has given such a report, it should be deemed that there was no proceedings pending on that date when the petitioner was allowed to retire on 29.9.2006. Therefore, according to the petitioner, the framing of the charges under the impugned order dated 29.9.2006 is against the order of relieving from service since on the date of relieving, there was no disciplinary proceedings pending against the petitioner.

4. Mr. Varadarajulu, learned counsel for the petitioner has taken me to the detailed enquiry said to have been conducted by the Director, Vigilance Department, in which various witnesses were examined and ultimately, a report was filed on 29.9.2006 in which they have come to the conclusion that the charges leveled against the petitioner are not substantiated and also recommended dropping of any further action against the petitioner. It is also stated in the report of the Director, Vigilance Department that the petitioner was due to retire on superannuation on 30.9.2006. It was in those circumstances, the petitioner was allowed to retire by an order dated 29.9.2006 without prejudice to the disciplinary proceedings against the petitioner. Therefore, on the facts of the case, I am satisfied that the proceedings against the petitioner was in fact pending on the date when the petitioner was allowed to retire on 29.9.2006 and it cannot be stated that simply because the Director, Vigilance Department has given his recommendation exonerating the charges against the petitioner, the disciplinary proceedings was not pending against him. Therefore, the contention of the learned counsel for the petitioner that on the date namely on 29.9.2006, when the petitioner was relieved, there was no disciplinary proceedings, is unsustainable. On the other hand, learned counsel who has taken notice on behalf of the respondent Corporation, produced a letter of the petitioner dated 7.10.2006 by which the petitioner has written a letter to the respondent and requested for some of the particulars which has been referred to in the impugned charge memo. It is also admitted that, as stated above, the petitioner has retired from service on 29.9.2006.

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5. Considering the facts and circumstances of the case and that on the date of retirement, the proceedings was pending against the petitioner, I am of the considered view, after hearing the learned counsel for the petitioner and also the learned counsel for the respondent, that the disciplinary proceedings initiated against the petitioner has to be disposed of within a specified time to meet the ends of justice.

6. Therefore, while dismissing the writ petition, the respondent is directed to complete the disciplinary proceedings initiated against the petitioner by the impugned charge memo dated 29.9.2006 by giving opportunity to the petitioner and pass appropriate orders in accordance with law within a period of ten weeks from the date of receipt of a copy of this order.

7. The writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

vsi

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Manager,
Metropolitan Transport Corporation Ltd.,
Pallavan Illam, Anna Salai,
Chennai - 600 002.

GM(CO)
SR/26.10.2006

W.P.No.39371 of 2006

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